

REMARKS

This Application has been carefully reviewed in light of the Office Action mailed April 13, 2005. At the time of the Office Action, Claims 1-7 were pending in this Application. Claims 1-7 were rejected under 35 U.S.C. § 103. Claim 1 has been amended and Claim 2 has been cancelled. Applicants respectfully request reconsideration and favorable action in this case.

Rejections under 35 U.S.C. §103

Claims 1-7 and 15 stand rejected under 35 U.S.C. §103(a) as being unpatentable over US 6,385,023 filed by Sudhir Pednekar et al. ("Pednekar") in view of U.S. Patent 5,835,541 issued to Minoru Namekata ("Namekata") and further in view of U.S. Patent 5,559,474 issued to Takayuki Matsumoto ("Matsumoto"). Applicants respectfully traverse and submit that Claims 1-7 as amended are patentable over Pednekar et al. in view of Namekata and in further view of Matsumoto.

In order to establish a *prima facie* case of obviousness, the references cited by the Examiner must disclose all claimed limitations. *In re Royka*, 490 F.2d 981, 180 U.S.P.Q. 580 (C.C.P.A. 1974). Furthermore, according to § 2143 of the Manual of Patent Examining Procedure, to establish a *prima facie* case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations. The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art, not in applicant's disclosure. *In re Vaeck*, 947 F.2d 488, 20 U.S.P.Q.2d 1438 (Fed. Cir. 1991). Here, the cited art combination is (1) improper and (2) fails to teach all the claimed limitations. Thus, Applicants request withdrawal of the obviousness rejection.

Applicants amended Claim 1 to further include the limitations of dependent Claim 2 which has been cancelled without prejudice. Pednekar teaches a reclosing apparatus for auxiliary systems of a plant and is, thus, generally related art with respect to the present

application which relates to machines or systems with microprocessor controlled control assemblies in which process variables of a technical process such as movement, pressure, temperature etc. are processed. Such a system is typically found in automation and/or manufacturing systems. See also originally submitted specification, page 1, paragraph [0002].

Namekata is related to data communication system in which data is transmitted over a transmission line and decoded in a receiver. Namekata does neither disclose or suggest to process any type of data related to technical process values such as movement, pressure, or temperature. On the contrary, Namekata merely discloses a system which decodes data by means of a Viterbi equalizer. The content of the data is neither analyzed nor processed. This type of technology is typical for the field of communication technology. Thus, a person skilled in the art would not consider Namekata in the field of automation/manufacturing process technology.

Furthermore, Applicants amended Claim 1 to further state that the indication signal is generated independently from the sampling cycle. During a sampling cycle a system, in particular a automation/manufacturing system, as disclosed in the present application performs certain control functions. This would not be possible in a system as disclosed by Namekata because a telecommunication system is not designed like an automation/manufacturing system. Therefore, a combination of the cited prior art is not proper in the present case.

The dependent claims include all the limitations of the respective independent claims to which they refer to. Thus, these claims are allowable at least to the extent of the respective independent claims.

CONCLUSION

Applicants have now made an earnest effort to place this case in condition for allowance in light of the amendments and remarks set forth above. Applicants respectfully request reconsideration of the pending claims.

If there are any matters concerning this Application that may be cleared up in a telephone conversation, please contact Applicants' attorney at 512.322.2545.

Change of Correspondence Address

Applicants respectfully request that all papers pertaining to the above-captioned patent application be directed to Customer No. **31625** and all telephone calls should be directed to Andreas Grubert at 512.322.2545.

Petition for Extension of Time

Applicants respectfully submit a Petition for a One Month Extension of Time, and a check in the amount of \$120.00 for the extension fee.